

Remarks

The Office Action dated December 12, 2007 indicated that claims 4, 7 and 18 stand rejected under 35 U.S.C. § 102(b) over Shiota *et al.* (U.S. Patent No. 5,879,970) and that claims 5 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

In response to the potentially allowability of claim 5 and claim 19 (which depends from claim 5), Applicant has rewritten claim 5 in independent form. Applicant has also amended claim 7 to depend from claim 5 and added new claims 21-22 which also depend from claim 5. Applicant respectfully submits that, as is consistent with the instant Office Action, claims 5, 7, 19 and 21-22 are in condition for allowance.

Applicant respectfully submits that the § 102(b) rejection of claims 4 and 18 cannot stand because the cited portions of the Shiota reference do not correspond to the claimed invention which includes, for example, aspects directed to the method being carried out at a temperature between 500°C and 600°C. In contrast, the cited portions of Shiota teach using a temperature between 350°C and 450°C, which is further taught by Shiota as being critical to the formation of the desired polycrystalline silicon-germanium alloy. *See, e.g.*, Col. 2:33-36, Col. 4:35-43, Col. 5:25-29, and Col. 7:35-44. Accordingly, the Shiota reference teaches away from using a temperature between 500°C and 600°C. *See e.g.*, M.P.E.P. § 2141.02(VI); *see, also, In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) (“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.”). Thus, the cited portions of Shiota do not teach using a temperature between 500°C and 600°C as in the claimed invention. Accordingly, Applicant requests that the § 102(b) rejection of claims 4 and 18 be withdrawn.

Applicant further submits that the § 102(b) rejection of claim 18 cannot stand because the cited portions of the Shiota reference do not correspond to aspects of the claimed invention directed to the source gases including SiH₄ and GeH₄. In contrast, the cited portions of Shiota teach using Si₂H₆ and GeF₄ as the source gases. *See, e.g.*, Col. 2:37-67. Thus, the cited portions of Shiota do not teach that the source gases include SiH₄ and GeH₄ as in the claimed invention. Accordingly, Applicant requests that the § 102(b) rejection of claim 18 be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

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